

Jenell Van Bindesbergen
Attorney at Law

E-mail: jvanbindsbergen@lozanosmith.com

May 10, 2019

By E-Mail: 40320-92876649@requests.muckrock.com

MuckRock News
Dept MR 40320
411A Highland Avenue
Sommerville, MA 02144-2516

Re: Public Records Act Request – Police Disciplinary Records

Dear MuckRock News:

As indicated in our prior correspondence, the City of Clovis (“Clovis or City”) is in receipt of your California Public Records Act (“CPRA”) request (“Records Request”) related to public records on police use of force investigations, sustained findings of police dishonesty and sexual assault.

We previously informed you that Clovis would make all reasonable efforts to provide you with responsive, non-exempt records in a manner consistent with the CPRA by May 10, 2019. After a thorough review of the records, the City has identified files responsive to your request.

The files identified include both written reports and audio/video files. The files which are currently producible and which are not prohibited from production at this time include 1,786 pages and 52 CD's with audio/video files. As you are aware there is currently litigation in the courts involving the new law. The City will produce the written records, unless there are court decisions which dictate otherwise, after receipt of a check in the amount of \$178.60 and after the written records have been redacted. At this time, due to the cost of redacting audio/video files, the City does not intend to produce the audio/video files. However, if you would like those files produced, please let me know and we will determine the cost of redaction, and upon receipt of the same, will also produce those records.

Of the files identified, there are additionally three files that are subject to pending litigation matters. Therefore, until the litigation is completed, the City will be unable to produce those files. The three files include 1,298 pages and 7 CD's with audio/video files. We will maintain these records, and upon the conclusion of the litigation matters, we will provide the written records after receipt of a check in the amount of \$129.80. At this time due to the cost of redacting audio/video files, the City does not intend to produce the audio/video files. However, if you would like those files produced, please let me know and we will determine the cost of redaction, and upon receipt of the same, will also produce those records.

Please note that notwithstanding the foregoing, the following documents shall not be made available to you because they are exempt from disclosure under the CPRA:

- Records that are protected under the attorney-client privilege. (Gov. Code, § 6254, subd. (k); Evid. Code, §§ 952 and 954; Bus. & Prof. Code, § 6068.);
- Records that are protected under the attorney work product privilege. (Gov. Code, § 6254, subd. (k); Evid. Code, § 915; CCP, § 2018.030; Bus. & Prof. Code, § 6068.);
- Records or information exempt from disclosure pursuant to Government Code section 6254.3, including but is not limited to a public agency employees' home addresses, home telephone numbers, personal cellular telephone numbers, and personal email addresses. (Gov. Code, §§ 6254.3 6255; *City of San Jose et al. v. Superior Court* (2017) 2 Cal.5th 608.);
- Personnel information, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code, § 6254, subds. (c) and (k); Cal. Const., art. I, § 1; *Marken v. Santa Monica-Malibu Unified School District*, (2012) 202 Cal.App.4th 1250.);
- Documents or information where on balance the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Gov. Code, § 6255, subd. (a).);
- Records which are exempt from disclosure pursuant to federal and state law mandating their confidentiality. (Gov. Code § 6254 subds. (c) and (k).)

If you have any questions, please feel free to contact me.

Sincerely,

LOZANO SMITH



Jenell Van Bindsbergen
Assistant City Attorney
for City of Clovis

JAV/ay

cc: Clovis Police Department
J:\wdocs\00608\001\ltr\00643876.DOCX